

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0453P**

**Sales and Use Tax**

**Period Ending April 30, 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer, in a letter dated July 28, 1998, protested the penalty assessed for late payment of sales tax for the period ending April 30, 1998 and states it was late one day due to the absence of one of its employees.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer was negligent when it failed to timely remit its sales tax return.

Taxpayer states it was late in the mailing due to an absence of one of its employees and there never was any intention of being late. In addition, the taxpayer asked that the department review its payment record that will verify that they were always on time. It is the taxpayer's contention that a penalty of this nature is excessive and requests that the department waive the penalty.

A taxpayer has thirty days after the close of the period in which to pay the tax due. By mailing the return on the last day, the taxpayer must consider that the post office may not postmark the return on the same day. The returns must be filed timely in order to avoid the late filing penalty. In addition, the taxpayer had another late payment in July 1991.

**FINDING**

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The taxpayer's protest is denied.